

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER, State Bar No. 117576
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 327-7868
Facsimile: (916) 324-5567
7

8 Attorneys for Complainant
9

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Petition to Revoke Probation
Against:

Case No. 2003-170

13 **TERRY LYNN SMITH aka TERRY LYNN**
14 **BALCAO aka TERRY LYNN CASTLE**
3781 Brook Valley Circle
15 Stockton, California 95219
Registered Nursing No. 489696
16

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

17 Respondent.

18 **FINDINGS OF FACT**

- 19 1. On or about March 26, 2007, Complainant Ruth Ann Terry, M.P.H, R.N
20 ("Complainant"), in her official capacity as the Executive Officer of the Board of Registered
21 Nursing ("Board"), Department of Consumer Affairs, filed Petition to Revoke Probation No.
22 2003-170 against Terry Lynn Smith aka Terry Lynn Balcao aka Terry Lynn Castle
23 ("Respondent") before the Board.
- 24 2. On or about March 31, 1993, the Board issued Registered Nursing License No.
25 489696 to Respondent. The License will expire on August 31, 2008, unless renewed.
- 26 3. On or about April 4, 2007, Donna H. Parker, an employee of the Department of
27 Justice, served by Certified and First Class Mail a copy of the Petition to Revoke Probation No.
28 2003-170 ("Petition") and Statement to Respondent, Notice of Defense, Request for Discovery,

1 and Government Code sections 11507.5, 11507.6, and 11507.7 (collectively referred to as
2 "Related Documents") to Respondent's address of record with the Board, which was and is 3781
3 Brook Valley Circle, Stockton, California 95219. True and correct copies of the Petition to
4 Revoke Probation, the Related Documents, and Declaration of Service are attached hereto,
5 collectively marked as Exhibit A, and incorporated herein by this reference.

6 4. Service of the Petition was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c).

8 5. On or about April 17, 2007, Respondent submitted her written notice to the
9 Board's counsel that she had relinquished her Registered Nursing License No. 489696 to the
10 Board. A true and correct copy of Respondent's notice is attached hereto, marked as Exhibit B,
11 and incorporated herein by this reference.

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the
14 respondent files a notice of defense, and the notice shall be deemed a
15 specific denial of all parts of the accusation not expressly admitted.
16 Failure to file a notice of defense shall constitute a waiver of
17 respondent's right to a hearing, but the agency in its discretion may
18 nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within fifteen (15) days after service
18 upon her of the Petition to Revoke Probation, and therefore waived her right to a hearing on the
19 merits of Petition to Revoke Probation No. 2003-170.

20 8. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear
22 at the hearing, the agency may take action based upon the respondent's
23 express admissions or upon other evidence and affidavits may be used
24 as evidence without any notice to respondent.

24 9 Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on
26 Respondent's express admissions by way of default and the evidence before it, contained in
27 Exhibits A, B, C, and D finds that the allegations in Petition to Revoke Probation No. 2003-170
28 are true.

1 10. The total costs for investigation and enforcement are \$1,080.00 as of August 6,
2 2007.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Terry Lynn Smith aka Terry
5 Lynn Balcao aka Terry Lynn Castle ("Respondent") has subjected her Registered Nursing
6 License No. 489696 to discipline.

7 2. A copy of the Petition to Revoke Probation, Related Documents, and Declaration
8 of Service are attached.

9 3. The agency has jurisdiction to adjudicate this case by default.

10 4. The Board of Registered Nursing ("Board") is authorized to revoke Respondent's
11 Registered Nursing License No. 489696 based upon the following violations alleged in the
12 Petition to Revoke Probation:

13 a. Respondent failed to comply with specified terms of probation in the prior
14 disciplinary action titled "*In the Matter of Accusation Against Terry Lynn Smith, also known as*
15 *Terry Lynn Balcao and Terry Lynn Castle*," Case No. 2003-170, and the Board's resulting
16 Decision and Order of March 2, 2004, which revoked her Registered Nursing License No.
17 489696 effective April 1, 2004. (See exhibit A to the Accusation, attached hereto and marked a
18 Exhibit A.) The revocation was stayed and Respondent was placed on probation for a period of
19 three (3) years under certain terms and conditions.

20 b. Respondent failed to comply with the following specified terms of probation as
21 set forth more fully in Exhibit D, hereto:

22 (1) **Condition 2:** Respondent failed to cooperate with the Board's
23 representative in monitoring her compliance with the Probation Program. On October 5, 2005,
24 Respondent was informed of a positive drug test for Tramadol. Respondent was asked to provide
25 a letter of explanation, as well as letters from her sponsor, doctor, and employer regarding the
26 positive test. On October 25, 2006, Respondent was sent a violation letter that requested the
27 same information. To date, the Board has not received any of the requested documentation.

28 ///

(2) **Condition 10:** Respondent failed to take a six hour course in Professional Ethics or Legal Aspects of Nursing.

(3) **Condition 12:** Respondent failed to submit to a physical examination.

(4) **Condition 13:** Respondent failed to check into a treatment or rehabilitation program for chemical dependency and failed to provide documentation that she is currently enrolled in a program, as requested in the October 25, 2006, violation letter. In addition, Respondent failed to submit attendance for AA/NA/Nurse Support Group attendance from June 2005 to the present.

(5) **Condition 14:** Respondent failed to abstain from Tramadol. On September 28, 2005, May 25, 2006, and September 31, 2006, Respondent tested positive for Tramadol. There is no documentation that states that she was prescribed this drug. Respondent failed to provide a letter of explanation for her failure to abstain from the drugs.

(6) **Condition 15:** Respondent failed to comply with the random, biological fluid testing or drug testing program. The following is her drug screening history:

<u>Call Date</u>	<u>Results</u>
July 6, 2004	positive/Diphenhydramine, Doxylamine, Fluoxetine
July 28, 2004	positive/Diphenhydramine, Doxylamine, Fluoxetine
August 17, 2004	failed to comply/no show
December 27, 2004	failed to comply/no show
January 3, 2005	dilute
September 28, 2005	positive/Tramadol
December 14, 2005	failed to comply/no show
January 5, 2006	low creatinine
January 23, 2006	failed to comply/no show
February 9, 2006	failed to comply/no show
March 9, 2006	dilute
March 22, 2006	failed to comply/no show
May 16, 2006	dilute
May 25, 2006	positive/Tramadol
July 26, 2006	dilute
September 21, 2006	positive/Tramadol
November 7, 2006	failed to comply/no show
November 28, 2006	failed to comply/no show
December 7, 2006	failed to comply/no show
December 19, 2006	failed to comply/no show

Respondent failed to provide a letter of explanation for her failure to test. In addition, the Board informed Respondent on December 4, 2006, that she needed to register with

1 Compass Vision, the drug test company that currently meets the Board's requirement, no later
2 than December 21, 2006. To date, Respondent has not registered with Compass Vision.

3 (7) **Condition 17:** Respondent failed to provide documentation that she is
4 currently participating in on-going therapy.

5 (8) Pursuant to **Condition 11** of Respondent's probation, set forth in Exhibit
6 D, hereto, cause exists to revoke Respondent's probation and reimpose the order of revocation in
7 that Respondent violated the conditions of her probation, as more specifically set forth
8 hereinabove.

9 **ORDER**

10 **IT IS SO ORDERED** that Registered Nursing License No. 489696, heretofore issued to
11 Respondent Terry Lynn Smith aka Terry Lynn Balcao aka Terry Lynn Castle, is revoked.

12 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
13 written motion requesting that the Decision be vacated and stating the grounds relied on within
14 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
15 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

16 This Decision shall become effective on DECEMBER 13, 2007

17 It is so **ORDERED** NOVEMBER 13, 2007

18 *LaTranene N Tate*

19 FOR THE BOARD OF REGISTERED NURSING
20 DEPARTMENT OF CONSUMER AFFAIRS
21 STATE OF CALIFORNIA

22
23 **Attachments:**

24 Exhibit A: Petition to Revoke Probation No.2003-170, Related Documents, and Declaration
of Service

25 Exhibit B: Copy of Respondent's Notice of Relinquishment of License

26 Exhibit C: Certification of Costs: Declaration of Leslie A. Burgermyer

Exhibit A

**Petition to Revoke Probation No. 2003-170,
Related Documents and Declaration of Service**

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART,
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER, State Bar No. 117576
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5337
Facsimile: (916) 327-8643
7

8 Attorneys for Complainant
9

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Petition to Revoke Probation
13 Against:

Case No. 2003-170

14 **TERRY LYNN SMITH a.k.a. TERRY LYNN**
BALCAO a.k.a. TERRY LYNN CASTLE
15 3781 Brook Valley Circle
Stockton, California 95219
16

PETITION TO REVOKE
PROBATION

17 Registered Nurse License No. 489696

18 Respondent.

19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs.

24 2. On or about March 31, 1993, the Board issued Registered Nurse license
25 Number 489696 to Terry Lynn Smith a.k.a. Terry Lynn Balcao a.k.a. Terry Lynn Castle
26 ("Respondent"). The license will expire on August 31, 2008, unless renewed.

27 ///

PRIOR DISCIPLINE

3. On or about March 2, 2004, in a disciplinary action entitled "*In the Matter of Accusation Against Terry Lynn Smith, also known as Terry Lynn Balcao and Terry Lynn Castle*," Case No. 2003-170, the Board issued a decision ordering that Respondent's license be revoked effective April 1, 2004. A true and correct copy of the Board's prior decision is attached hereto, marked as Exhibit A, and incorporated herein by this reference. The revocation was stayed and Respondent was placed on probation for a period of three (3) years under certain terms and conditions, including the following:

a. Condition 2, Comply with Probation Program, states:

Respondent shall fully comply with the terms and conditions of the Probation Program established by the Board and cooperate with representative of the Board in its monitoring and investigation of the Respondent's compliance with the Probation Program. Respondent shall inform the Board in writing within no more than 15 days of any address change and shall at all times maintain an active, current license status with the Board, including during any period of suspension.

b. Condition 10, Complete a Nursing Course(s), states:

Respondent shall complete with a appropriate requirement, as specified in the decision:

(a) Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term; or

(b) Respondent shall be suspended from the practice of registered nursing, until she has enrolled in and successfully completed a course(s) relevant to the practice of registered nursing.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

///

///

///

1 c. Condition 11, Violation of Probation, states:

2 If Respondent violates the conditions of her probation, the
3 Board after giving the Respondent notice and an opportunity to
4 be heard, may set aside the stay order and impose the stayed
discipline, revocation of Respondent's license.

5 If during the period of probation, an accusation or petition to
6 revoke probation has been filed against Respondent's license or
7 the Attorney General's Office has been requested to prepare an
8 accusation or petition to revoke probation against the
9 Respondent's license, the probationary period shall automatically
be extended and shall not expire until the accusation or petition
has been acted upon by the Board. Upon successful completion
of probation, Respondent's license will be fully restored.

10 d. Condition 12, Physical Examination, states:

11 Within a reasonable time approved by the Board, Respondent,
12 at her expense, shall have a licensed physician, nurse practitioner,
13 or physician assistant, who is approved by the Board before the
14 assessment is performed, submit an assessment of Respondent's
15 physical condition and capability to perform the duties of a
16 registered nurse. Such an assessment shall be submitted in a
format acceptable to the Board. If medically determined, a
recommended treatment program will be instituted and followed
by the Respondent with the physician, nurse practitioner, or
physician assistant providing written reports to the Board on
forms approved by the Board.

17 If Respondent is determined to be unable to practice safely as
18 a registered nurse, the licensed physician, nurse practitioner, or
19 physician assistant making this determination shall immediately
20 notify the Probation program and Respondent by telephone.
21 Respondent shall immediately cease practice and shall not
resume practice until notified by the Probation Monitor. During
this period of suspension, Respondent shall not engage in any
practice for which a license issued by the Board is required until
the Probation Monitor has notified Respondent that a medication
determination permits Respondent to resume practice.

22 e. Condition 13, Participate in Treatment/Rehabilitation Program for
23 Chemical Dependence, states:

24 Respondent, at her expense, shall successfully complete during
25 the probationary period or shall have successfully completed prior
26 to commencement of probation a Board-approved
27 treatment/rehabilitation program of at least six months. As
28 required, reports shall be submitted by the program on forms
provided by the Board. If Respondent has not completed a Board-
approved treatment/rehabilitation program prior to
commencement of probation, Respondent, within a reasonable
time approved by the Board, shall be enrolled in a program. If a

1 program is not successfully completed within the first nine
2 months of probation, the Board shall consider Respondent in
violation of probation.

3 Based on Probation Program recommendation, each week
4 Respondent shall be required to attend at least one, but no more
5 than five 12-step recovery meetings or equivalent (e.g., Narcotics
6 Anonymous, Alcoholics Anonymous, etc.) and a nurse support
7 group as approved and directed by the Board. If a nurse support
8 group is not available an additional 12-step meeting or equivalent
9 shall be added. Respondent shall submit dated and signed
documentation confirming such attendance to the Board during
the entire period of probation. Respondent shall continue with the
recovery plan recommended by the treatment/rehabilitation
program or a licensed mental health examiner and/or other
ongoing recovery groups.

10 f. Condition 14, Abstain from use of Psychotropic (Mood Altering) Drugs,

11 states:

12 Respondent shall completely abstain from the possession,
13 injection or consumption by any route of all psychotropic (mood
14 altering) drugs, including alcohol, except when the same are
15 ordered by a health care professional legally authorized to do so
16 and are part of documented medical treatment. Respondent shall
17 have sent to the Board, in writing and within 14 days, by the
prescribing physician, or dentist, a report identifying the
medication, dosage, the date the medication was prescribed, the
Respondent's prognosis, the date the medication will no longer
be required, and the effect on the recovery plan, if appropriate.

18 Respondent shall identify for the Board a single physician,
19 nurse practitioner or physician assistant who shall be aware of
20 Respondent's history of substance abuse and will coordinate and
21 monitor any prescriptions for Respondent for dangerous drugs,
22 controlled substances or mood altering drugs. The coordinating
physician, nurse practitioner, or physician assistant shall report to
the Board on a quarterly basis Respondent's compliance with this
condition. If any substances considered addictive have been
prescribed, the report shall identify a program for the time
limited use of any such substances.

23 The Board may require the single coordinating physician,
24 nurse practitioner or physician assistant to be a specialist in
25 addictive medicine, or to consult with a specialist in addictive
medicine.

26 g. Condition 15, Submit to Tests and Samples, states:

27 Respondent, at her expense, shall participate in a random,
28 biological fluid testing or a drug screening program which the
Board approves. The length of time and frequency will be
subject to approval of the Board. The Respondent is responsible

1 for keeping the Board informed of Respondent's current
2 telephone number at all times. Respondent shall also ensure that
3 messages may be left at the telephone number when she is not
4 available and ensure that reports are submitted directly by the
5 testing agency to the Board, as directed. Any confirmed position
6 findings shall be reported immediately to the Board by the
7 program and the Respondent shall be considered in violation of
8 probation.

9 In addition, Respondent, at any time during the period of
10 probation, shall fully cooperate with the Board or any of its
11 representatives, and shall, when requested, submit to such tests
12 and samples as the Board or its representatives may require for
13 the detection of alcohol, narcotics, hypnotics, dangerous drugs, or
14 other controlled substances.

15 If Respondent has a positive drug screen for any substance not
16 legally authorized and not reported to the coordinating physician,
17 nurse practitioner, or physician assistant, and the Board files a
18 petition to revoked probation or an accusation, the Board may
19 suspend Respondent from practice pending the final decision on
20 the petition to revoked probation or the accusation.

21 h. Condition 16, Mental Health Exam/Substance Abuse Assessment, states:

22 The Respondent shall, within 45 days of the effective date of
23 this decision, have a mental health examination including
24 psychological testing as appropriate to determine her capability
25 to perform the duties of a registered nurse. The examination will
26 be performed by a psychiatrist, psychologist or other licensed
27 mental health practitioner approved by the Board. The
28 examining mental health practitioner will submit a written report
of the assessment and recommendations to the Board. All costs
are the responsibility of the Respondent. Recommendations for
treatment, therapy or counseling made as a result of the mental
health examination will be instituted and followed by the
Respondent.

If Respondent is determined to be unable to practice safely as
a registered nurse, the licensed mental health care practitioner
making this determination shall immediately notify the Probation
Program and Respondent by telephone. Respondent shall
immediately cease practice and may not resume practice until
notified by the Probation Monitor. During this period of
suspension, Respondent shall not engage in any practice of for
which a license issued by the Board is required, until the
Probation Monitor has notified Respondent that a mental health
determination permits Respondent to resume practice.

///
///
///

1 i. Condition 17 states:

2 Respondent, at her expense, shall participate in an on-going
3 counseling program until such time as the Board releases her
4 from this requirement and only upon the recommendation of the
counselor. Written progress reports from the counselor will be
required at various intervals.

5 **CAUSES TO REVOKE PROBATION**

6 4. Pursuant to Condition 11 of Respondent's probation, set forth above in
7 paragraph 3.c, cause exists to revoke Respondent's probation and reimpose the order of
8 revocation in that Respondent violated the conditions of her probation, as follows:

9 a. **Condition 2:** Respondent failed to cooperate with the Board's
10 representative in monitoring her compliance with the Probation Program. On October 5, 2005,
11 Respondent was informed of a positive drug test for Tramadol. Respondent was asked to provide
12 a letter of explanation, as well as letters from her sponsor, doctor, and employer regarding the
13 positive test. On October 25, 2006, Respondent was sent a violation letter that requested the
14 same information. To date, the Board has not received any of the requested documentation.

15 b. **Condition 10:** Respondent failed to take a six hour course in
16 Professional Ethics or Legal Aspects of Nursing.

17 c. **Condition 12:** Respondent failed to submit a physical examination.

18 d. **Condition 13:** Respondent failed to check into a treatment or
19 rehabilitation program for chemical dependency and provide documentation that she is currently
20 enrolled in a program, as requested in the October 25, 2006, violation letter. In addition,
21 Respondent failed to submit attendance for AA/NA/Nurse Support Group attendance from June
22 2005 to the present.

23 e. **Condition 14:** Respondent failed to abstain from Tramadol. On
24 September 28, 2005, May 25, 2006, and September 31, 2006, Respondent tested positive for
25 Tramadol. There is no documentation that states that she was prescribed this drug. Respondent
26 failed to provide a letter of explanation for her failure to abstain from the drugs.

27 ///

28 ///

f. **Condition 15:** Respondent failed to comply with the random, biological fluid testing or drug testing program. The following is her drug screening history:

<u>Call Date</u>	<u>Results</u>
July 6, 2004	positive/Diphenhydramine, Doxylamine, Fluoxetine
July 28, 2004	positive/Diphenhydramine, Doxylamine, Fluoxetine
August 17, 2004	failed to comply/no show
December 27, 2004	failed to comply/no show
January 3, 2005	dilute
September 28, 2005	positive/Tramadol
December 14, 2005	failed to comply/no show
January 5, 2006	low creatinine
January 23, 2006	failed to comply/no show
February 9, 2006	failed to comply/no show
March 9, 2006	dilute
March 22, 2006	failed to comply/no show
May 16, 2006	dilute
May 25, 2006	positive/Tramadol
July 26, 2006	dilute
September 21, 2006	positive/Tramadol
November 7, 2006	failed to comply/no show
November 28, 2006	failed to comply/no show
December 7, 2006	failed to comply/no show
December 19, 2006	failed to comply/no show

Respondent failed to provide a letter of explanation for her failure to test. In addition, the Board informed Respondent on December 4, 2006, that she needed to register with Compass Vision, the drug test company that currently meets the Board's requirement, no later than December 21, 2006. To date, Respondent has not registered with Compass Vision.

g. **Condition 17:** Respondent failed to provide documentation that she is currently participating in on-going therapy.

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking the probation that was granted by the Board of Registered Nursing in Case No. 2003-170, and imposing the disciplinary order that was stayed, thereby revoking Registered Nurse License No. 489696, issued to Terry Lynn Smith, a.k.a. Terry Lynn Balcao, and Terry Lynn Castle;

///

- 1 2. Revoking or suspending Registered Nurse License No. 489696, issued to
2 Terry Lynn Smith, a.k.a. Terry Lynn Balcao, and Terry Lynn Castle; and,
3 3. Taking such other and further action as deemed necessary and proper.

4 DATED: 3/26/07

5
6 
7 RUTH ANN TERRY, M.P.H., R.N.
8 Executive Officer
9 Board of Registered Nursing
10 Department of Consumer Affairs
11 State of California
12 Complainant

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SA2007100370

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2003-170

TERRY LYNN SMITH
aka TERRY LYNN BALCAO
aka TERRY LYNN CASTLE
3781 Brook Valley Circle
Stockton, California 95219

Registered Nurse License No. 489696

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing of the Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on April 1, 2004.

It is so ORDERED March 2, 2004.

Sandra L. Erickson

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 BILL LOCKYER, Attorney General
of the State of California
2 JOEL S. PRIMES, State Bar No. 42568
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5340
Facsimile: (916) 327-8643

6 Attorneys for Complainant
7

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2003-170

12 TERRY LYNN SMITH
aka TERRY LYNN BALCAO
13 aka TERRY LYNN CASTLE
3781 Brook Valley Circle
14 Stockton, California 95219

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER**

15 Registered Nurse License No. 489696

16 Respondent.
17

18 In the interest of a prompt and speedy settlement of this matter, consistent with the
19 public interest and the responsibility of the Board of Registered Nursing of the Department of
20 Consumer Affairs, (hereinafter "Board"), the parties hereby agree to the following Stipulated
21 Settlement and Disciplinary Order which will be submitted to the Board for its approval and
22 adoption as the final disposition of the pending Accusation.

23 Respondent Terry Lynn Smith also known as Terry Lynn Balcao, and Terry Lynn
24 Castle, (hereinafter "Respondent"), and complainant, Ruth Ann Terry, R.N., Executive Officer,
25 Board of Registered Nursing, Department of Consumer Affairs, State of California, through her
26 counsel, Deputy Attorney General, Joel S. Primes, hereby stipulate that the following matters are
27 true.

28 1. On or about March 31, 1993, the Board of Registered Nursing issued

1 Registered Nurse license number 489696 to Terry Lynn Smith also known as Terry Lynn Balcao,
2 and Terry Lynn Castle ("Respondent"). The license was in full force and effect at all times
3 relevant to the charges herein and will expire on August 31, 2004, unless renewed.

4 2. Respondent was duly served with the Accusation, which is on file and
5 pending in case No. 2003-170, and accompanying documents. A copy of the Accusation is
6 attached hereto as an exhibit and is incorporated by reference as though set forth at length herein.
7 Respondent is subject to the jurisdiction of the Board in regard to the matters alleged in the
8 Accusation.

9 WAIVER OF RIGHTS

10 3. Respondent has read and understands the charges and allegations of
11 violations of the Business and Professions Code contained in the Accusation and her rights under
12 the Administrative Procedure Act.

13 4. Respondent is aware of and understands her right to retain legal counsel to
14 advise and represent her in this matter. To this extent, Respondent has retained attorney, Michael
15 Land of Modesto, California to advise and represent her in this matter.

16 5. Respondent withdraws the Notice of Defense previously filed in this
17 matter, and agrees to be bound by the terms of this Stipulation, and of the Decision and Order,
18 and freely and voluntarily waives any rights she may have in this proceeding to a hearing on the
19 charges and allegations contained in the Accusation, to reconsideration, to appeal, to judicial
20 review, and to all other rights which she may have under the California Administrative
21 Procedures Act and the laws and regulations of the State of California.

22 BASIS FOR DISCIPLINE

23 6. Respondent admits the truth of each and every factual allegation contained
24 in Accusation No.2003-170, and further admits that cause exists to discipline Registered Nurse
25 license number 489696 issued to Terry Lynn Smith.

26 7. Grounds exist to discipline Respondent's license under Business and
27 Professions Code sections 2750, 2761 (a), 2762 (a), and (e).

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
84

5

6
7
3

9

1

1

1
7
2

h

1 designated by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per
2 tablet.

3 FIRST CAUSE FOR DISCIPLINE

4 (Obtain, Possess and Self-Administer Controlled Substance)

5 13. Respondent is subject to disciplinary action under Code section 2761(a) on
6 the grounds of unprofessional conduct as defined in section 2762(a) of that Code in that on or
7 about March 18, 2000, while employed as a Registered Nurse at Doctors Medical Center,
8 Modesto, California, Respondent did the following:

9 a. Obtained a controlled substance by fraud, deceit, misrepresentation or
10 subterfuge or by the concealment of a material fact in violation of the Health and Safety Code
11 section 11173(a) by signing out Vicodin for various patients and taking it for her own personal
12 use.

13 b. Possessed a controlled substance in violation of Code section 4060.

14 c. Self-administered a controlled substance without direction from a licensed
15 physician and surgeon, dentist or podiatrist.

16 SECOND CAUSE FOR DISCIPLINE

17 (Falsified, Made Incorrect or Inconsistent Entries in Hospital or Patient Records)

18 14. Respondent is subject to disciplinary action under Code section 2761(a) on
19 the grounds of unprofessional conduct as defined in section 2762(e) of the Code in that on or
20 about March 18, 2000, while employed as a Registered Nurse at Doctors Medical Center,
21 Modesto, California, she falsified, or made grossly incorrect, grossly inconsistent, or
22 unintelligible entries in hospital or patient records in the following respects:

23 Patient A:

24 15. On or about March 18, 2000, at 07:50, Respondent signed out two (2) 7.5
25 mg. tablets of Vicodin from the Sure-Med system for administration to Patient A but failed to
26 chart the administration on the patient's medication administration record, failed to note any
27 wastage of the medication, and the signing out for administration was inconsistent with
28 physician's orders which did not call for administration of that medication.

1 16. On or about March 18, 2000, at 12:18, Respondent signed out two (2) 7.5
2 mg. tablets of Vicodin from the Sure-Med system for administration to Patient A but failed to
3 chart the administration on the patient's medication administration record, failed to note any
4 wastage of the medication, and the signing out for administration was inconsistent with
5 physician's orders which did not call for administration of that medication.

6 17. On or about March 18, 2000, at 17:02, Respondent signed out two (2) 7.5
7 mg. tablets of Vicodin from the Sure-Med system for administration to Patient A but failed to
8 chart the administration on the patient's medication administration record, failed to note any
9 wastage of the medication, and the signing out for administration was inconsistent with
10 physician's orders which did not call for administration of that medication.

11 Patient B:

12 18. On or about March 18, 2000, at 07:55, Respondent signed out two (2) 5
13 mg. tablets of Vicodin from the Sure-Med system for administration to Patient B but failed to
14 chart the administration on the patient's medication administration record, failed to note any
15 wastage of the medication, and the signing out for administration was inconsistent with
16 physician's orders which did not call for administration of that medication.

17 19. On or about March 18, 2000, at 13:53, Respondent signed out two (2) 5
18 mg. tablets of Vicodin from the Sure-Med system for administration to Patient B but failed to
19 chart the administration on the patient's medication administration record, failed to note any
20 wastage of the medication, and the signing out for administration was inconsistent with
21 physician's orders which did not call for administration of that medication.

22 CONTINGENCY

23 It is understood by Respondent that, in deciding whether to adopt this Stipulation,
24 the Board may receive oral and written communication from its staff and the Attorney General's
25 Office. Communications pursuant to this paragraph shall not disqualify the Board or other
26 persons from future participation in this or any other matter affecting Respondent. In the event
27 ///

28 ///

1 this Stipulation is not adopted by the Board, the Stipulation will not become effective and may
2 not be used for any purpose, except for this paragraph, which shall remain in effect.

3 WHEREFORE, it is stipulated that the Board of Registered Nursing may issue the
4 following Decision and Order:

5 DECISION AND ORDER

6 Said license shall immediately be revoked, the order of revocation stayed and
7 respondent placed on probation for a period of three (3) years on the following terms and
8 conditions:

9 Severability Clause - Each term and condition of probation contained herein is a
10 separate and distinct term and condition. If any term and condition of this Order, or any
11 application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of
12 this Order, and all other applications thereof, shall not be affected. Each term and condition of
13 this Order shall separately be valid and enforceable to the fullest extent permitted by law.

14 (1) OBEY ALL LAWS - Respondent shall obey all federal, state and local
15 laws. A full and detailed account of any and all violations of law shall be reported by the
16 Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit
17 monitoring of compliance with this term, Respondent shall submit completed fingerprint cards
18 and fingerprint fees within 45 days of the effective date of the decision, unless previously
19 submitted as part of the licensure application process. Respondent shall submit a recent 2" x 2"
20 photograph of himself within forty-five (45) days of the effective date of the final decision.

21 (2) COMPLY WITH PROBATION PROGRAM - Respondent shall fully
22 comply with the terms and conditions of the Probation Program established by the Board and
23 cooperate with representative of the Board in its monitoring and investigation of the
24 Respondent's compliance with the Probation Program. Respondent shall inform the Board in
25 writing within no more than 15 days of any address change and shall at all times maintain an
26 active, current license status with the Board, including during any period of suspension.

27 ///

28 ///

1 (3) REPORT IN PERSON - Respondent, during the period of probation, shall
2 appear in person at interviews/meetings as directed by the Board or its designated
3 representatives.

4 (4) RESIDENCY OR PRACTICE OUTSIDE OF STATE - Respondent shall
5 be bound by the terms and conditions of the Disciplinary Order as of its effective date. However
6 the period of probation shall be tolled, and the terms and conditions of the Disciplinary Order
7 shall be stayed until Respondent enters the State of California to practice nursing at a future date.
8 With the exception of terms and conditions number 1, 4, and 12 set forth herein, which shall not
9 be stayed and which shall be fully complied with by Respondent during the entire length of the
10 probationary term. Respondent shall give written notice to the Board of Respondent's intention
11 to practice nursing in California thirty (30) days prior to engaging in any activity requiring a
12 registered nurse license issued by the Board. Failure to comply with the notice requirements
13 shall constitute a violation of probation and a basis for revoking probation and Respondent's
14 California registered nurse license.

15 (5) SUBMIT WRITTEN REPORTS - Respondent, during the period of
16 probation, shall submit or cause to be submitted such written reports/declarations and verification
17 of actions under penalty of perjury as required by the Board. These reports/declarations shall
18 contain statements relative to Respondent's compliance with all the terms and conditions of the
19 Board's Probation Program. Respondent shall immediately execute all release of information
20 forms as may be required by the Board or its representatives.

21 PROVIDE DECISION - Respondent shall provide a copy of this decision to the
22 nursing regulatory agency in every state and territory in which she has a registered nurse license.

23 (6) FUNCTION AS A REGISTERED NURSE - Respondent, during the
24 period of probation, shall engage in the practice of registered nursing in California for a
25 minimum of 24 hours per week for six consecutive months or as determined by the Board.

26 For purposes of compliance with the section, "engage in the practice of registered
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1 The Board may require that advanced practice nurses engage in advanced practice
2 nursing for a minimum of 24 hours per week for six consecutive months or as determined by the
3 Board.

4 If the Respondent has not complied with this condition during the probationary
5 term, and the Respondent has presented sufficient documentation of her good faith efforts to
6 comply with this condition, and if no other conditions have been violated, the Board, in its
7 discretion, may grant an extension of the Respondent's probation period up to one year without
8 further hearing in order to comply with this condition.

9 (7) EMPLOYMENT APPROVAL AND REPORTING REQUIREMENTS

10 Respondent shall obtain prior approval from the Board before commencing any employment,
11 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
12 performance evaluations and other employment related reports as a registered nurse upon request
13 of the Board.

14 Respondent shall provide a copy of this decision to her employer and immediate
15 supervisor prior to commencement of any nursing or other health care related employment.

16 Respondent shall notify the Board in writing seventy-two (72) hours after she
17 obtains any nursing or other health care related employment, when such employment is not as a
18 registered nurse. Respondent shall notify the Board in writing within seventy-two (72) hours
19 after she is terminated from any registered nursing, other nursing, or other health care related
20 employment with a full explanation of the circumstances surrounding the termination.

21 (8) SUPERVISION - Respondent shall obtain prior approval from the Board
22 regarding Respondent's level of supervision and/or collaboration before commencing any
23 employment as a registered nurse.

24 Respondent shall practice only under the direct supervision of a registered nurse
25 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative
26 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
27 are approved.

28 ///

Respondent's level of supervision and/or collaboration may include, but is not limited to the following:

(a) Maximum - The individual providing supervision and/or collaboration is present in the patient care area or in any other work setting at all times.

(b) Moderate - The individual providing supervision and/or collaboration is in the patient care unit or in any other work setting at least half the hours Respondent works.

(c) Minimum - The individual providing supervision and/or collaboration has person-to-person communication with Respondent at least twice during each shift worked.

(d) Home Health Care - If Respondent is approved to work in the home health care setting, the individual providing supervision and/or collaboration shall have person to person communication with Respondent as required by the Board each work day. Respondent shall maintain telephone or other telecommunication contact with the individual providing supervision and /or collaboration as required by the Board during each work day. The individual providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to patients' homes visited by the Respondent with or without Respondent present.

(9) EMPLOYMENT LIMITATIONS - Respondent shall not work for a nurse's registry, in any private duty position as a registered nurse, a temporary nurse placement agency, or for an in-house nursing pool.

Respondent shall not work for a licensed home health agency as a visiting nurse unless the registered nursing supervision and other protections for home visits have been approved by the Board. Respondent shall not work in any other registered nursing occupation where home visits are required.

Respondent shall not work in any health care setting as a supervisor of registered nurses. The Board may additionally restrict Respondent from supervising licensed vocational nurses and/or unlicensed assistive personnel on a case-by-case basis.

Respondent shall not work as a faculty member in an approved school of nursing or as an instructor in a Board approved continuing education program.

///

1 Respondent shall not work only on a regularly assigned, identified and
2 predetermined worksite(s) and shall not work in a float capacity.

3 If the Respondent is working or intends to work in excess of 40 hours per week,
4 the Board may request documentation to determine whether there should be restrictions on the
5 hours of work.

6 (10) COMPLETE A NURSING COURSE(S) - Respondent shall complete with
7 a appropriate requirement, as specified in the decision:

8 (a) Respondent, at her own expense, shall enroll and successfully complete
9 a course(s) relevant to the practice of registered nursing no later than six months prior to the end
10 of her probationary term; or

11 (b) Respondent shall be suspended from the practice of registered nursing,
12 until she has enrolled in and successfully completed a course(s) relevant to the practice of
13 registered nursing.

14 Respondent shall obtain prior approval from the Board before enrolling in the
15 course(s). Respondent shall submit to the Board the original transcripts or certificates of
16 completion for the above required courses(s). The Board shall return the original documents to
17 Respondent after photocopying them for its records.

18 (11) VIOLATION OF PROBATION - If Respondent violates the conditions of
19 her probation, the Board after giving the Respondent notice and an opportunity to be heard, may
20 set aside the stay order and impose the stayed discipline, revocation of Respondent's license.

21 If during the period of probation, an accusation or petition to revoke probation has
22 been filed against Respondent's license or the Attorney General's Office has been requested to
23 prepare an accusation or petition to revoke probation against the Respondent's license, the
24 probationary period shall automatically be extended and shall not expire until the accusation or
25 petition has been acted upon by the Board. Upon successful completion of probation,
26 Respondent's license will be fully restored.

27 (12) PHYSICAL EXAMINATION - Within a reasonable time approved by the
28 Board, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or

1 physician assistant, who is approved by the Board before the assessment is performed, submit an
2 assessment of Respondent's physical condition and capability to perform the duties of a
3 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
4 medically determined, a recommended treatment program will be instituted and followed by the
5 Respondent with the physician, nurse practitioner, or physician assistant proving written reports
6 to the Board on forms provided by the Board.

7 If Respondent is determined to be unable to practice safely as a registered nurse,
8 the licensed physician, nurse practitioner, or physician assistant making this determination shall
9 immediately notify the Probation program and Respondent by telephone. Respondent shall
10 immediately cease practice and shall not resume practice until notified by the Probation Monitor.
11 During this period of suspension, Respondent shall not engage in any practice for which a license
12 issued by the Board is required until the Probation Monitor has notified Respondent that a
13 medical determination permits Respondent to resume practice.

14 (13) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR
15 CHEMICAL DEPENDANCE - Respondent, at her expense, shall successfully complete during
16 the probationary period or shall have successfully completed prior to commencement of
17 probation a Board-approved treatment/rehabilitation program of at least six months. As required,
18 reports shall be submitted by the program on forms provided by the Board. If Respondent has
19 not completed a Board-approved treatment/rehabilitation program prior to commencement of
20 probation, Respondent, within a reasonable time approved by the Board, shall be enrolled in a
21 program. If a program is not successfully completed within the first nine months of probation,
22 the Board shall consider Respondent in violation of probation.

23 Based on Probation Program recommendation, each week Respondent shall be
24 required to attend at least one, but no more than five 12-step recovery meetings or equivalent
25 (e.g., Narcotics Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as
26 approved and directed by the Board. If a nurse support group is not available, an additional 12-
27 step meeting or equivalent shall be added. Respondent shall submit dated and signed
28 documentation confirming such attendance to the Board during the entire period of probation.

1 Respondent shall continue with the recovery plan recommended by the treatment/rehabilitation
2 program or a licensed mental health examiner and/or other ongoing recovery groups.

3 (14) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD ALTERING)

4 DRUGS - Respondent shall completely abstain from the possession, injection or consumption by
5 any route of all psychotropic (mood altering) drugs, including alcohol, except when the same are
6 ordered by a health care professional legally authorized to do so and are part of documented
7 medical treatment. Respondent shall have sent to the Board, in writing and within 14 days, by
8 the prescribing physician, or dentist, a report identifying the medication, dosage, the date the
9 medication was prescribed, the Respondent's prognosis, the date the medication will no longer
10 be required, and the effect on the recovery plan, if appropriate.

11 Respondent shall identify for the Board a single physician, nurse practitioner or
12 physician assistant who shall be aware of Respondent's history of substance abuse and will
13 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled
14 substances or mood altering drugs. The coordinating physician, nurse practitioner, or physician
15 assistant shall report to the Board on a quarterly basis Respondent's compliance with this
16 condition. If any substances considered addictive have been prescribed, the report shall identify a
17 program for the time limited use of any such substances.

18 The Board may require the single coordinating physician, nurse practitioner, or
19 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
20 addictive medicine.

21 (15) SUBMIT TO TESTS AND SAMPLES - Respondent, at her expense, shall
22 participate in a random, biological fluid testing or a drug screening program which the Board
23 approves. The length of time and frequency will be subject to approval of the Board. The
24 Respondent is responsible for keeping the Board informed of Respondent's current telephone
25 number at all times. Respondent shall also ensure that messages may be left at the telephone
26 number when she is not available and ensure that reports are submitted directly by the testing
27 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
28 to the Board by the program and the Respondent shall be considered in violation of probation.

1 In addition, Respondent, at any time during the period of probation, shall fully
2 cooperate with the Board or any of its representatives, and shall, when requested, submit to such
3 tests and samples as the Board or its representatives may require for the detection of alcohol,
4 narcotics, hypnotics, dangerous drugs, or other controlled substances.

5 If Respondent has a positive drug screen for any substance not legally authorized
6 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
7 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent
8 from practice pending the final decision on the petition to revoke probation or the accusation.

9 (16) MENTAL HEALTH EXAM/SUBSTANCE ABUSE ASSESSMENT -
10 The Respondent shall, within 45 days of the effective date of this decision, have a mental health
11 examination including psychological testing as appropriate to determine her capability to perform
12 the duties of a registered nurse. The examination will be performed by a psychiatrist,
13 psychologist or other licensed mental health practitioner approved by the Board. The examining
14 mental health practitioner will submit a written report of that assessment and recommendations
15 to the Board. All costs are the responsibility of the respondent. Recommendations for treatment,
16 therapy or counseling made as a result of the mental health examination will be instituted and
17 followed by the respondent.

18 If respondent is determined to be unable to practice safely as a registered nurse,
19 the licensed mental health care practitioner making this determination shall immediately notify
20 the Probation Program and respondent by telephone. Respondent shall immediately cease
21 practice and may not resume practice until notified by the Probation Monitor. During this period
22 of suspension, respondent shall not engage in any practice for which a license issued by the
23 Board is required, until the Probation Monitor has notified respondent that a mental health
24 determination permits respondent to resume practice.


25 (17) THERAPY OR COUNSELING PROGRAM - Respondent, at her
26 expense, shall participate in an on-going counseling program until such time as the Board
27 releases her from this requirement and only upon the recommendation of the counselor. Written
28 progress reports from the counselor will be required at various intervals.

1 (18) COSTS - Respondent shall pay the sum of \$3,000.00 in costs.

2 IT IS FURTHER STIPULATED AND AGREED that the terms of this Stipulation
3 shall be subject to the acceptance of the Board of Registered Nursing. If the Board fails to accept
4 this Stipulation, it shall be of no force or effect for either party, and the matter will be regularly
5 set for hearing.

6 DATED: Nov. 3, 2003.

7 BILL LOCKYER, Attorney General
8 of the State of California

9 
10 JOEL S. PRIMES
11 Deputy Attorney General

12 ACCEPTANCE

13 I hereby state that I have read and understand the legal significance and
14 consequence of this Stipulation, and I fully understand all of, and agree to be bound by, the
15 terms of this document. I understand that I have certain rights under the California
16 Administrative Procedure Act and the laws and regulations of the State of California in regard to
17 this matter, and I knowingly and intelligently waive those rights.

18 I understand my right to retain legal counsel to advise me in this matter. I have
19 employed attorney Michael Land of Modesto to represent and advise me in this case.

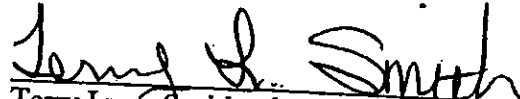
20 I also understand that once I sign this Stipulation, I shall not be permitted to
21 withdraw from it unless it is rejected by the Board.

22 I further understand that this Stipulation may not be accepted by the California
23 Board of Registered Nursing, in which case it is of no effect.

24 I have carefully read the above Stipulated Settlement and Disciplinary Order, and
25 I fully understand the terms and conditions and other matters contained therein, I understand the
26 effect this stipulation will have on my Registered Nurse License. I enter into this Stipulated
27 Settlement voluntarily, knowingly and intelligently and agree to be bound by the Disciplinary
28 Order and Decision of the Board of Registered Nursing. I further agree that a facsimile copy of

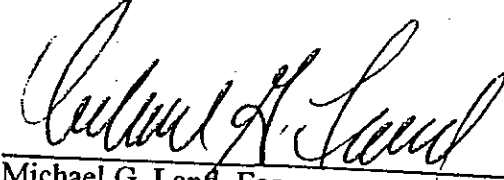
1 this Stipulated Settlement and Disciplinary Order, including facsimile copies of signatures, may
2 be used with the same force and effect as the originals.

3 DATED 10/28, 2003.

4 
5 Terry Lynn Smith, aka Terry Lynn Balcao,
6 aka Terry Lynn Castle
Respondent

7 APPROVED:

8 DATED: 10/29, 2003.

9 
10 Michael G. Land, Esq.
11 Attorney at Law
12 318 McHenry Avenue
13 Modesto, CA 95354

14 Attorney for Terry Lynn Smith
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Exhibit A:

Accusation, Case No. 2003-170

1 BILL LOCKYER, Attorney General
of the State of California
2 JOEL S. PRIMES, State Bar No. 42568
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5340
Facsimile: (916) 327-8643

6 Attorneys for Complainant
7

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 2003-170

TERRY LYNN SMITH
aka TERRY LYNN BALCAO
aka TERRY LYNN CASTLE
3781 Brook Valley Circle
Stockton, California 95219

ACCUSATION

Registered Nurse License No. 489696

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
Department of Consumer Affairs.

2. On or about March 31, 1993, the Board of Registered Nursing issued
Registered Nurse license number 489696 to Terry Lynn Smith also known as Terry Lynn Balcao,
and Terry Lynn Castle ("Respondent"). The license was in full force and effect at all times
relevant to the charges herein and will expire on August 31, 2004, unless renewed.

///

///

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Section 2761(a) of the Code states, in pertinent part, that the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

5. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

6. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7. DRUGS

"Hydrocodone" also known as "Vicodin" is a compound consisting of 5 mg. hydrocodone bitartrate also known as dihydrocodeinone, a Schedule III controlled substance as

1 designated by Health and Safety Code section 11056(e)(4), and 500 mg. acetaminophen per
2 tablet.

3 FIRST CAUSE FOR DISCIPLINE

4 (Obtain, Possess and Self-Administer Controlled Substance)

5 8. Respondent is subject to disciplinary action under Code section 2761(a) on
6 the grounds of unprofessional conduct as defined in section 2762(a) of that Code in that on or
7 about March 18, 2000, while employed as a Registered Nurse at Doctors Medical Center,
8 Modesto, California, Respondent did the following:

9 a. Obtained a controlled substance by fraud, deceit, misrepresentation or
10 subterfuge or by the concealment of a material fact in violation of the Health and Safety Code
11 section 11173(a) by signing out Vicodin for various patients and taking it for her own personal
12 use.

13 b. Possessed a controlled substance in violation of Code section 4060.

14 c. Self-administered a controlled substance without direction from a licensed
15 physician and surgeon, dentist or podiatrist.

16 SECOND CAUSE FOR DISCIPLINE

17 (Falsified, Made Incorrect or Inconsistent Entries in Hospital or Patient Records)

18 9. Respondent is subject to disciplinary action under Code section 2761(a) on
19 the grounds of unprofessional conduct as defined in section 2762(e) of the Code in that on or
20 about March 18, 2000, while employed as a Registered Nurse at Doctors Medical Center,
21 Modesto, California, she falsified, or made grossly incorrect, grossly inconsistent, or
22 unintelligible entries in hospital or patient records in the following respects:

23 Patient A:

24 a. On or about March 18, 2000, at 07:50, Respondent signed out two (2) 7.5
25 mg. tablets of Vicodin from the Sure-Med system for administration to Patient A but failed to
26 chart the administration on the patient's medication administration record, failed to note any
27 wastage of the medication, and the signing out for administration was inconsistent with
28 physician's orders which did not call for administration of that medication.

1 b. On or about March 18, 2000, at 12:18, Respondent signed out two (2) 7.5
2 mg. tablets of Vicodin from the Sure-Med system for administration to Patient A but failed to
3 chart the administration on the patient's medication administration record, failed to note any
4 wastage of the medication, and the signing out for administration was inconsistent with
5 physician's orders which did not call for administration of that medication.

6 c. On or about March 18, 2000, at 17:02, Respondent signed out two (2) 7.5
7 mg. tablets of Vicodin from the Sure-Med system for administration to Patient A but failed to
8 chart the administration on the patient's medication administration record, failed to note any
9 wastage of the medication, and the signing out for administration was inconsistent with
10 physician's orders which did not call for administration of that medication.

11 Patient B:

12 d. On or about March 18, 2000, at 07:55, Respondent signed out two (2) 5
13 mg. tablets of Vicodin from the Sure-Med system for administration to Patient B but failed to
14 chart the administration on the patient's medication administration record, failed to note any
15 wastage of the medication, and the signing out for administration was inconsistent with
16 physician's orders which did not call for administration of that medication.

17 e. On or about March 18, 2000, at 13:53, Respondent signed out two (2) 5
18 mg. tablets of Vicodin from the Sure-Med system for administration to Patient B but failed to
19 chart the administration on the patient's medication administration record, failed to note any
20 wastage of the medication, and the signing out for administration was inconsistent with
21 physician's orders which did not call for administration of that medication.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 25 1. Revoking or suspending Registered Nurse license number 489696, issued
26 to Terry Lynn Smith, also known as Terry Lynn Balcao and Terry Lynn Castle;
27 2. Ordering Terry Lynn Smith also known as Terry Lynn Balcao and Terry
28 Lynn Castle to pay the Board of Registered Nursing the reasonable costs of the investigation and

1 enforcement of this case, pursuant to Business and Professions Code section 125.3;

2 3. Taking such other and further action as deemed necessary and proper.

3 DATED: 1/16/03

4

5

6

7

8

9

10

SA2002AD0951

11

Accusation (kdg) 12/19/02

12

13

14

15

16

17

18

19

20

21

22

23


24

25

26

27

28


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant